



Linda S. Adams
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California Regional Water Quality Control Board

Santa Ana Region

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Arnold Schwarzenegger
Governor

February 13, 2008

Don Copeland
Department of Transportation (Caltrans)
District 8
464 West Fourth Street, 6th Floor
San Bernardino, CA 92401-1407

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR DRAINAGE IMPROVEMENTS AT STATE ROUTE 38, POST
MILE 52.66 AND 54.5, COMMUNITY OF FAWNSKIN, SAN BERNARDINO COUNTY
(CORPS FILE NO. NOT AVAILABLE)**

Dear Mr. Copeland:

On January 17, 2008, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), for the proposed installation of drainage improvements at Post Mile 52.66 and 54.5 on State Route 38 near the community of Fawnskin. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description: Installation of a seepage collection drain beneath the roadway at Post Mile 52.66 and a storm drain inlet and related pipeline at Post Mile 54.5. Both drain lines will discharge into nearby un-named ephemeral drainages, resulting in the construction of outlet structures at the discharge locations. Mature willow trees in the drainages will be left in place and the impacted areas will be vegetated with appropriate native plant species. Work is expected to begin between May 1 and October 14, 2008. The drain lines are respectively located near the community of Fawnskin within Section 13 of Township 2 North and Range 1 West and Section 17 of Township 2 North and 1 East of the U.S. Geological Survey *Fawnskin, California*, 7.5-minute topographic quadrangle map (34 deg. 15 min. 43 sec. N/-116 deg. 53 min. 53 sec. W and 34 deg. 15 min. 44 sec. N/-116 deg. 55 min. 40 sec. W, respectively).

California Environmental Protection Agency



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Receiving Waters: Two un-named ephemeral drainages tributary to Big Bear Lake.

Fill Area: 0.07 acres of permanent impact to two ephemeral drainages (110 total linear feet).

Dredge Volume: Not applicable.

Federal Permit: US Army Corps of Engineers Nationwide Permit No. 18.

This certification addresses impacts to water quality standards associated with the dredging or filling of waters of the United States. Construction and post-construction impacts resulting from the project and use of the roadways are addressed by waste discharge requirements issued to the Caltrans by the State Water Resources Control Board in Order No. 99-06 DWQ. These requirements include the development and implementation of appropriate Best Management Practices for the purpose of removing construction-related and transportation-related pollutants from discharges from Caltrans' rights-of-way and easements.

You have submitted an application for coverage under a nationwide permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game. Pursuant to California Environmental Quality Act (CEQA), Caltrans and the Executive Officer have determined that the project is Categorical Exempt from requirements of CEQA under Guidelines Section 15301, for repair, maintenance or minor alteration of existing facilities.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) Re-vegetation work in the excavated drainages must be initiated not later than December 31, 2008.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.



- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance. Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and

307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at www.swrcb.ca.gov/resdec/wqorders/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Adam Fischer at (951) 320-6363, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic message):

U. S. Army Corps of Engineers, Los Angeles Office – Gerry Salas
State Water Resources Control Board, OCC – Erik Spiess
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme
California Department of Fish and Game, Ontario Office – Jeff Brandt
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith

APF: 401/certifications/SR 38 drainage 362008-02

